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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,734	02/01/2006	Kazuhiko Yamaguchi	06054/LH	9701
1933	7590	11/12/2009	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			GHULAMALI, QUTBUDDIN	
220 Fifth Avenue			ART UNIT	PAPER NUMBER
16TH Floor			2611	
NEW YORK, NY 10001-7708			MAIL DATE	DELIVERY MODE
			11/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,734	<b>Applicant(s)</b> YAMAGUCHI, KAZUHIKO
	<b>Examiner</b> Qutbuddin Ghulamali	<b>Art Unit</b> 2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 July 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,8 and 15 is/are rejected.
- 7) Claim(s) 2-7 and 9-14 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date 7/28/09
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

1. This office action is responsive to amendment filed 7/28/2009.

### *Response to Remarks/Amendment*

2. Applicant's remarks with respect to amended claims 1 and 8, have been considered but are moot in view of the new ground(s) of rejection. The rejection based on new art follows.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8, 15 are rejected under 35 U.S.C. 102 (b) as being anticipated by Tazaki et al (USP 3,731,199).

Regarding claims 1, 8, Tazaki discloses a pulse pattern generator comprising: a pulse generating unit (figs. 1A, 1B, 3, element 1, 2) which generates a pulse signal formed in a step-like wave in which at least one of rise and fall of the pulse signal is changed in a step like manner in a predetermined bit string between first and second predetermined amplitude values (fig. 1A, 1B, 2a, 2B, RLS, MLS, Lref1 and Lref0) to provide a step at an amplitude between the first and second predetermined amplitude values (col. 3, lines 15-22, 34-49; col. 3, lines 8-20);

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a low pass filter which smoothes the pulse signal formed in the step-like wave, the pulse signal being generated by the pulse generating unit, (see above) (fig. 7, elements 34, 36; col. 7, lines 5-15); and

an amplitude-value setting unit which adjusts an amplitude value of a step-like wave that forms the pulse signal based on the amplitude value, in order to set an eye waveform at a predetermined eye closure when an output from the low pass filter is eye-patterned, wherein the pulse signal having a desired pulse pattern with the predetermined eye closure (area defined by the waveform) set by the amplitude-value setting unit is configured as output from low pass filter (col. 3, lines 21-67; col. 4, lines 1-49; col. 6, lines 16-57; col. 7, lines 3-35). Regarding claim 8, the steps claimed as apparatus is nothing more than restating the function of the specific components of the method as claimed above and therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to represent the claim in an alternate way so as to realize steps for the apparatus as claimed, considering the aforementioned rejection for the method claim 1.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 15 rejected under 35 U.S.C. 103 (a) as being unpatentable over Tazaki et al (USP 3,731,199) in view of Ono et al (US Pub. 2007/0116474).

. Regarding claim 15, Tazaki discloses substantially all limitations of the claim above. Tazaki does not explicitly disclose communication to a device under test (DUT) perform with at least one of electrical or optical signal. Ono discloses communication with DUT with electrical or optical signal (fig. 1; page 2, section 0033; page 3, section 0036). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use communicating DUT with electrical or optical signal as taught by Ono in the system of Tazaki because it can allow DUT communicate with electrical or optical signals effectively in a high speed environment.

***Allowable Subject Matter***

7. Claims 2-7, 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qutbuddin Ghulamali whose telephone number is (571)-272-3014. The examiner can normally be reached on Monday-Friday, 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh M. Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

QG.  
November 6, 2009.

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/CHIEH M FAN/

Supervisory Patent Examiner, Art Unit 2611